

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DAVID TRUJILLO, an individual,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION FILE
)	NO. 1:11-CV-4520-AT
THANKS AGAIN, LLC, a)	
Delaware Corporation, and)	
EDMUND PUCKHABER, an)	
Individual,)	
)	
Defendants.)	

**ATTORNEY THOMAS F. MARTIN RESPONSE TO MOTION FOR
DIRECTION IN LIGHT OF ISSUES
CONSUMMATING THE SETTLEMENT NEGOTIATED
DURING COURT-ORDERED MEDIATION**

COMES NOW Attorney Thomas F. Martin, and responds to Thanks Again, LLC's and Edmund Puckhaber's Motion for Direction [104] (hereinafter "Defendants' Motion") and responds as follows:

1.

This matter was successfully mediated on February 6, 2014 as shown by signed Term Sheet attached as Exhibit 1 to Defendants' Motion. The settlement included all claims in this matter including attorneys' fees and costs.

2.

On February 19, 2014, via electronic mail, Plaintiff notified Plaintiff's counsel Thomas F. Martin ("Attorney Martin") that Attorney Martin was fired from this matter. Attorney Martin is responding to Defendant's Motion on behalf of himself as having an interest in the settlement and not on behalf of Plaintiff.

3.

With respect to Defendant's Motion, Attorney Martin agrees with, or generally has no comment at the present moment with regards Paragraphs 1-3, 5-9, 11-14, and 17-19.

4.

With respect to Paragraph 4 of Defendant's Motion, Attorney Martin states that the request for mediation was originally contained in the PreTrial Order. (D.E. No. 83).

5.

With respect to Paragraph 10 of Defendant's Motion, Attorney Martin states that the attorneys' fees and costs agreed upon by Attorney Martin of a total of \$75,000 represented a discount of approximately \$32,750 from the anticipated "35%" in attorneys' fees and costs otherwise entitled to by Attorney Martin.

6.

In response to Paragraph 15 of Defendants' Motion, Attorney Martin has attached as Exhibit A a copy of the Note he sent to Defendants' counsel requesting it be issued to him separately from any note payable to Plaintiff.

7.

With respect to Paragraph 16 Defendants' Motion, Attorney Martin respectfully asks that this Court order that Defendants prepare two mutually exclusive promissory notes, one to Plaintiff and one to Attorney Martin (see Exhibit A). The inconvenience to Defendants is minimal as compared with the potential inconvenience to all parties and this Court if Plaintiff and Attorney Martin remain "tied" together for the next five years given that Attorney Martin will probably not be representing Plaintiff and their interests in the settlement agreement are easily divided and made mutually exclusive.

8.

With regards to the first Paragraph 20 of Defendants' Motion, Attorney Martin would direct the Court's attention to Exhibit 2 of Defendants' Motion which is an electronic message to Defendants' regarding allocations providing an allocation for the FLSA portion of the case.

9.

With regards to the second Paragraph 20 of Defendant's Motion, Attorney Martin disagrees, as the allocations and justifications therefore were provided to Defendants by Attorney Martin and were previously agreed to by Plaintiff.

WHEREFORE, Attorney Martin agrees with the need to seek direction from the Court on how to go about consummating this settlement.

Respectfully submitted this 26th day of February, 2014.

MARTIN & MARTIN, LLP
By: /s/ Thomas F. Martin
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CERTIFICATE OF SERVICE

I hereby certify that on February 26, 2014, I electronically filed the within and foregoing document entitled **ATTORNEY THOMAS F. MARTIN RESPONSE TO MOTION FOR DIRECTION** with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to all attorneys of record.

Additionally service has been made to the Plaintiff via Email as follows:

Plaintiff David Trujillo
davidtrujillo322@yahoo.com

and, by US Mail addressed to:

David Trujillo
2012 Fairmeadow Drive
Richardson, TX 75080

By: /s/ Thomas F. Martin
Thomas F. Martin